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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
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12 CATHY ENWERE,

13 Plaintiff,

14 v.

15 Terman Associates, L.P., dba  
16 Terman Apartments, et al.,

17 Defendants.  
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Case No.: C 07-1239 JF (PVT)

**INTERIM ORDER RE DEFENDANTS'  
MOTION TO COMPEL**

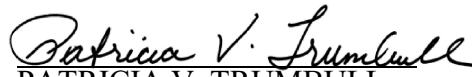
19 On October 14, 2008, Defendants filed a motion to compel Plaintiff to 1) produce documents  
20 and 2) authorize production of health information from a third party. Having reviewed the papers  
21 submitted by the parties, the court finds it appropriate to issue this interim order denying the latter  
22 portion of Defendants' motion and leaving the former portion of the motion on for hearing on  
23 November 25, 2008. Based on the moving papers and the file herein,

24 IT IS HEREBY ORDERED that Defendants' motion to compel Plaintiff to execute and  
25 return the release requested by the San Mateo Department of Health is DENIED without prejudice to  
26 Defendants moving for an order compelling the San Mateo Department of Health to comply with any  
27 valid subpoena Defendants serves on it. Defendant cites no legal authority by which the court may  
28 order a litigant to execute a release for her medical records. The proper procedure is to move to

1 compel the health provider to comply with any valid subpoena with which it has been served.<sup>1</sup> *See*,  
2 FED.R.CIV.PRO. 45(c)(2)(B)(i). In the present case, the subpoena Defendants served on San Mateo  
3 Department of Health is invalid because it was not issued by the court for the district where the  
4 production was set to occur.<sup>2</sup> *See* FED.R.CIV.PRO. 45(a)(2)(C) (subpoena for production of  
5 documents must issue “from the court for the district where the production or inspection is to be  
6 made.”)

7 IT IS FURTHER ORDERED that the portion of Defendants’ motion that seeks an order  
8 compelling Plaintiff herself to produce documents remains on calendar for November 25, 2008, and  
9 Plaintiff’s opposition to that portion of the motion remains due on November 4, 2008.

10 Dated: 10/15/08

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12 PATRICIA V. TRUMBULL  
13 United States Magistrate Judge  
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25 <sup>1</sup> The court deems the July 1, 2008 letter from the County of San Mateo Health Department  
26 to be an objection on grounds of Plaintiff’s privacy, California Welfare and Institutions Code section  
27 5328, and California Evidence Code section 1013(c). The court expresses no opinion at this time as to  
28 the validity of any such objections in this case.

<sup>2</sup> Even if the subpoena had issued from the U.S. District Court for the Central District of  
California, where the production was set to occur, it would be subject to being quashed because it  
requires the subpoenaed party to travel more than 100 miles to produce the documents. *See*  
Fed.R.Civ.Pro. 45(c)(3)(A)(ii).

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2 *Counsel automatically notified of this filing via the court's Electronic Case Filing system.*

3

4 copies mailed on 10/15/08 to:

5 Cathy Enwere  
1263 Madera Ave.  
6 Menlo Park, CA 94025

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9

/s/ Donna Kirchner for  
CORINNE LEW  
Courtroom Deputy

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